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06 UNITED STATES DISTRICT COURT  
07 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

08 ALLAH, ) CASE NO. C05-1480-MJP  
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Petitioner,  
v.  
KAREN BRUNSON,  
Respondent.

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14 INTRODUCTION AND SUMMARY CONCLUSION

15 Petitioner is a Washington prisoner who is currently incarcerated at the Clallam Bay  
16 Corrections Center in Clallam Bay, Washington. He seeks relief under 28 U.S.C. § 2254 from two  
17 2002 King County Superior Court convictions. Respondent has filed an answer to the petition  
18 together with relevant portions of the state court record. Petitioner has filed a motion for  
19 summary judgment. The Court, having reviewed petitioner's petition, respondent's answer,  
20 petitioner's motion for summary judgment<sup>1</sup>, and the balance of the record, concludes that

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22 <sup>1</sup> The Court construes petitioner's motion for summary judgment (Dkt. No. 55) as a  
response to respondent's answer and, thus, the motion is STRICKEN from the Court's calendar.

01 petitioner's federal habeas petition should be denied, and this action should be dismissed with  
02 prejudice.

### 03 BACKGROUND

04 On February 13, 2002, petitioner was convicted of one count of possession of cocaine  
05 following a bench trial in King County Superior Court Cause No. 01-1-10807-3. (*See* Dkt. No.  
06 52, Ex. 1 at 1.) On the same date, petitioner was convicted of one count of possession with intent  
07 to manufacture or deliver cocaine and one count of unlawful possession of a firearm following a  
08 bench trial in King County Superior Court Cause No. 01-1-09176-6. ( *See id.*, Ex. 2 at 1.)  
09 Petitioner was sentenced to a term of 126 months confinement in Cause No. 01-1-10807-3 and  
10 to a term of 162 months confinement in Cause No. 01-1-09176-6. (*See id.*, Ex. 1 at 4 and Ex. 2  
11 at 4.) The trial court ordered that the two sentences run concurrently.<sup>2</sup> (*Id.*)

12 On March 7, 2002, petitioner filed, *pro se*, a timely notice of appeal in the King County  
13 Superior Court. (*Id.*, Ex. 4.) On August 1, 2002, the Washington Court of Appeals appointed  
14 counsel to represent petitioner on appeal. ( *Id.*, Ex. 5.) Petitioner apparently objected to the  
15 appointment of counsel. (*See id.*, Ex. 6.) He also argued to the Court of Appeals that his appeal  
16 was premature because he had not exhausted his post-trial motions which were then pending in  
17 the trial court. (*Id.*) The Court of Appeals stayed petitioner's appeal pending resolution of the  
18 post-trial motions, rescinded the appointment of counsel, and ordered any retained counsel to file

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20 <sup>2</sup> On May 16, 2002, petitioner was convicted of intimidating a witness following a bench  
21 trial in King County Superior Court Cause No. 02-1-02047-6. ( *See* Dkt. No. 52, Ex. 3 at 1.)  
22 Petitioner was sentenced to a term of 95 months confinement in that case and the trial court  
ordered that that term be served consecutively to the sentences imposed in Cause Nos. 01-1-  
10807-3 and 01-1-09176-6. (*Id.*, Ex. 3 at 4.) That conviction is not at issue in these proceedings.

01 a notice of appearance. (*Id.*)

02 On August 21, 2002, the trial court denied petitioner's post-trial motions. (*Id.*, Exs. 7 and  
03 8.) Petitioner appealed the denial of his post-trial motions to the Washington Court of Appeals.  
04 (*Id.*, Ex. 9.) The stay of petitioner's original appeal was subsequently lifted and the Court of  
05 Appeals indicated that petitioner's appeal of the order denying his post-trial motions would be  
06 heard together with petitioner's original appeal. (Dkt. No. 52, Ex. 9.) On October 10, 2002, the  
07 Court of Appeals Commissioner issued a ruling consolidating the appeals. (*Id.*, Ex. 10.)

08 Petitioner elected to represent himself on appeal. (*See id.*, Ex. 11.) However, he failed  
09 to file the verbatim reports of proceedings necessary for his appeal. (*Id.*) On October 18, 2002,  
10 petitioner was notified that if the verbatim reports of proceedings were not filed by November 18,  
11 2002, or if petitioner failed to show good cause by that date why they had not been filed, the  
12 appeal would be dismissed. (*Id.*) Petitioner failed to timely file the reports of proceedings, or to  
13 show cause why they had not been filed and, thus, on April 16, 2003, the Court of Appeals  
14 dismissed the appeal. (*Id.*, Ex. 12.) On May 23, 2003, the Court of Appeals issued a mandate  
15 terminating direct review. (*Id.*, Ex. 13.)

16 Petitioner thereafter filed a series of personal restraint petitions in the Washington Court  
17 of Appeals. ( *See id.*, Ex. 14.) It appears that petitioner filed a total of five personal restraint  
18 petitions challenging his convictions in Cause No. 01-1-09176-6, and two personal restraint  
19 petitions challenging his conviction in Cause No. 01-1-10807-3. ( *See id.*) Each of the seven  
20 petitions was dismissed by the Court of Appeals as successive under RCW 10.73.140. (*See id.*,  
21 Ex. 15.) Petitioner did not seek review of any of the orders dismissing the relevant personal  
22 restraint petitions by the Washington Supreme Court. (*See id.*)

01 On May 17, 2007, petitioner filed a petition for writ of habeas corpus in the Washington  
02 Supreme Court. (*Id.*, Ex. 22.) Petitioner presented the following questions to the Supreme Court  
03 for consideration:

- 04 (1) Is Allah a real party of interest in the State of Washington v. Edwin Coston?
- 05 (2) Is a search warrant signed by a de facto judge with no supporting affidavit  
06 valid?
- 07 (3) Is a trial that has been presided over by a de facto judge, using a fictitious  
08 defendant, with no probable cause, lack jurisdiction? And with no contract?
- 09 (4) Is two trials presided over by a de facto judge, with no consent, using a  
10 fictitious defendant, no probable cause, and force to place fingerprints on a  
11 judgment and sentence for a fictitious defendant, lack jurisdiction?
- 12 (5) Does the Department of Corrections have authority to use falsified records  
with no dockets or warrant of commitments signed by a de facto judge who  
has violated state and federal laws and constitutions to hold Allah?

12 (Dkt. No. 52, Ex. 22 at i.)

13 The Supreme Court construed petitioner's petition for writ of habeas corpus as a personal  
14 restraint petition and set a briefing schedule. (*Id.*, Ex. 23.) Shortly after filing his petition,  
15 petitioner filed a motion and order for release seeking entry of default against his sentencing judge  
16 and against the superintendent of the facility where he was incarcerated. (*Id.*, Ex. 24.) Both the  
17 Washington Department of Corrections and the state filed responses to petitioner's personal  
18 restraint petition. (*Id.*, Exs. 26 and 27.) Petitioner thereafter filed a motion for summary judgment  
19 which the Supreme Court treated as a supplemental argument in support of petitioner's personal  
20 restraint petition. (*Id.*, Exs. 28 and 29.)

21 On September 27, 2007, the Supreme Court Commissioner issued a ruling dismissing  
22 petitioner's personal restraint petition. (*Id.*, Ex. 29.) The Commissioner implied in his ruling that

all of petitioner's issues, with the exception of petitioner's contention that the trial court lacked jurisdiction, were time barred. (*Id.*, Ex. 29 at 2.) However, the Commissioner also concluded that the petition failed as to all issues presented because petitioner failed to support his claims with any competent evidence. (*Id.*) As to petitioner's claim regarding the authority of the Department of Corrections to hold him, the Commissioner noted that petitioner had previously changed his name from Edwin Coston to Allah, that the department's records accurately reflected this fact, and that nothing in the record showed any defect in the department's authority to incarcerate petitioner. (*Id.*)

Petitioner subsequently filed a motion to modify the Commissioner’s ruling. (Dkt. No. 52, Ex. 30.) On December 4, 2007, the Chief Justice of the Supreme Court issued an Order denying petitioner’s motion to modify and denying his motion to be released from custody. (*Id.*, Ex. 31.) The Supreme Court issued a certificate of finality in petitioner’s personal restraint proceedings on December 11, 2007. (*Id.*, Ex. 32.)

Petitioner now seeks federal habeas review of his state court convictions under King County Superior Court Cause Nos. 01-1-10807-3 and 01-1-09176-6.

## GROUNDWORK FOR RELIEF

Petitioner identifies the following four grounds for relief in his federal habeas petition:

**GROUND ONE:** State violated U.S. Constitution at 1st, 4th, 5th, 6th, 8th, and 14th Amend. when it failed to assent thereby before Prosecution of Allah.

Supporting facts:

Initial contact of State, through its police, was without warrant or charge and went beyond well established exception to warrant. Furthermore, all subsequent prosecutions occurred without Petitioner receiving the benefit of Equal Protection of Law where State violates prohibitions and restrictions imposed by the above

01 Constitution and Amendments.

02 **GROUND TWO:** State violated Petitioner's rights under U.S. v. Olmstead (citation  
03 omitted) & Gomillion v. Lightfoot (citation omitted).

04 Supporting facts:

05 The Police entered Petitioners [sic] home without a Warrant, seized Petitioner  
06 without a Warrant, held Petitioner in the King County Jail without a Warrant and  
07 without being registered as being there, and held two sham trials without Probable  
08 Cause or Charges, in violation of the Constitution and laws of the United States for  
09 America, and the holdings in Olmstead & Gomillion.

10 **GROUND THREE:** Respondent's [sic] are violating the Washington State  
11 Constitution and Statutes - W.A.C. 381-30-090 Documents required.

12 Supporting facts:

13 The Respondent's [sic] have held Petitioner without an Original Judgment &  
14 Sentence, and without Warrant of Commitments, the Respondent's Record's [sic]  
15 have no trial dockets that shows the name of the Case, Respondent's [sic] have  
16 refused to allow Petitioner to see Warrant of Commitment's [sic] that name Allah, or  
17 Trial dockets that name Allah.

18 **GROUND FOUR :** Respondent's [sic] knowingly violated Washington's  
19 Constitution and RCW 70.48.100, thereby violating the due process clauses of both  
20 Constitutions, while also violating the Equal Protection clauses of the 14th  
21 Amendment.

22 Supporting facts:

Petitioner was held in the King County Jail in violation of the 4th/5th Amend., without  
Warrant and in violation of RCW 70.48.100 Jail Register open to public, when  
Petitioner was held without being registered, in a fictitious name.

(See Dkt. No. 22 at 5, 6, 8, and 10.)

## DISCUSSION

Respondent states in her answer to the petition that petitioner arguably presented his four  
federal habeas claims to the Washington Supreme Court. She argues, however, that with one

01 exception, petitioner's claims were expressly procedurally barred in state court and therefore are  
02 not cognizable in this federal habeas action. The lone exception, according to respondent, is  
03 petitioner's claim that the trial court lacked jurisdiction based on its use of his former name. And,  
04 as to that claim, respondent argues that petitioner has not presented a cognizable ground for relief  
05 because the claim does not implicate federal constitutional concerns.

06 This Court is not satisfied that petitioner did, in fact, present each of his federal habeas  
07 claims to the Washington Supreme Court in his personal restraint petition, nor is it convinced that  
08 the claims which were presented were expressly procedurally barred by the Washington Supreme  
09 Court. However, because petitioner has not identified any constitutional infirmity in his  
10 convictions which entitles him to relief in this federal habeas proceeding, this Court will bypass  
11 respondent's procedural bar argument.

#### 12 Ground One

13 Petitioner asserts in his first ground for relief that the first contact made with him by police  
14 was made without a warrant and exceeded any warrant exception. It is unclear whether petitioner  
15 is complaining about an unlawful search, an unlawful seizure, or both. Regardless, any such claim  
16 implicates petitioner's rights under the Fourth Amendment. In *Stone v. Powell*, 428 U.S. 465  
17 (1976), the United States Supreme Court held that federal habeas review of a Fourth Amendment  
18 claim is barred unless petitioner can show that he was "denied an opportunity for a full and fair  
19 litigation of that claim at trial and on direct review." *Id.* at 495 n. 37. The Court reasoned that  
20 because Fourth Amendment claims turn on police misconduct and not on actual guilt or innocence,  
21 they have "no bearing on the basic justice of [one's] incarceration." *Id.* at 491-92 n.31. Nothing  
22 in the record suggests that petitioner was denied the opportunity to litigate his Fourth Amendment

01 claims in the state courts. Accordingly, petitioner's Fourth Amendment claims are not cognizable  
02 in this federal habeas proceeding.

03         Petitioner also asserts in his first ground for relief that he was denied equal protection of  
04 the law in the prosecutions which followed his first contact with police. However, petitioner  
05 offers no facts whatever to support his equal protection claim and the Court cannot discern from  
06 the manner in which this claim is presented how petitioner's rights under the Equal Protection  
07 Clause might be implicated here. "Conclusory allegations which are not supported by a statement  
08 of specific facts do not warrant habeas relief." *James v. Borg*, 24 F.3d 20, 26 (1994). Because  
09 petitioner has not provided sufficient facts to support an equal protection claim, he has failed to  
10 state a cognizable ground for relief.

#### 11                                 Ground Two

12         Petitioner asserts in his second ground for relief that the police entered his home without  
13 a warrant, seized him without a warrant, held him in the King County Jail without a warrant and  
14 without being registered there, and held two "sham" trials without probable cause or charges.  
15 Most of these claims once again implicate Fourth Amendment concerns. As explained above, such  
16 claims are not cognizable in this federal habeas proceeding.

17         Petitioner's apparent claim that he was unlawfully prosecuted is not supported by any  
18 statement of facts and, thus, does not warrant habeas relief as presented. *See James*, 24 F.3d at  
19 26. *See James*, 24 F.3d at 26. Assuming that petitioner intends to claim, as he has in other  
20 documents on file in this action, that his prosecution was unlawful because he was charged, tried,  
21 and convicted under the name Edwin R. Coston and not the name Allah, he still has not stated a  
22 claim which would entitle him to relief on federal habeas review. Petitioner presented evidence



01 to the state courts that he legally changed his name from Edwin R. Coston to Divine Answer Born  
02 Supreme Allah in 1995, and that he legally changed his name again in 1999 from Divine Answer  
03 Born Supreme Allah to Allah. (See Dkt. No. 52, Ex. 22, appendix A.) As petitioner's own  
04 evidence makes clear that Edwin R. Coston and Allah are the same individual, petitioner's  
05 contention that his convictions were unlawful because some of the trial court's documents bore  
06 only his former name is meritless. Petitioner cites to no federal law which would warrant a  
07 different conclusion.

08         Petitioner does make reference in his second ground for relief to two United States  
09 Supreme Court cases which he appears to believe support his claims that he was unlawfully  
10 arrested, detained and prosecuted: *United States v. Olmstead* , 277 U.S. 438 (1928) and  
11 *Gomillion v. Lightfoot* , 364 U.S. 339 (1960). However, neither case entitles petitioner to any  
12 relief here. *Olmstead* was a wiretap case in which the Court found that the interception of the  
13 defendant's telephone line was not proscribed by the Fourth Amendment because it was  
14 accomplished without entry onto his premises. As discussed above, petitioner's Fourth  
15 Amendment claims are not cognizable in this proceeding. *Gomillion* involved a challenge on equal  
16 protection grounds to a statute which redefined the boundaries of the City of Tuskegee, Alabama.  
17 Plaintiff has alleged no facts in support of any intended equal protection claim nor has he offered  
18 any explanation as to how *Gomillion* might otherwise be relevant to this case.

### 19                                   Ground Three

20         Petitioner asserts in his third ground for relief that his rights under the Washington State  
21 Constitution and Washington Statutes, specifically, Chapter 381-30-090 of the Washington  
22 Administrative Code, have been violated. Petitioner does not allege any violation of his federal

01 constitutional rights. A writ of habeas corpus may issue only upon a finding that a prisoner is "in  
02 custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. §  
03 2241(c)(3). Federal habeas relief does not lie for errors of state law. *Lewis v. Jeffers*, 497 U.S.  
04 764, 780 (1990)(citing *Pulley v. Harris*, 465 U.S. 37, 41 (1983)). Because petitioner's third  
05 ground for relief is based solely on state law, the claim is not cognizable in this federal habeas  
06 proceeding.

#### 07 Ground Four

08 Petitioner asserts in his fourth ground for relief that his rights under the Washington  
09 Constitution and under RCW 70.48.100 were violated when he was held in the King County Jail  
10 under a fictitious name. Petitioner contends that the knowing violation of his rights under state  
11 law amounts to a violation of the Due Process and Equal Protection Clauses of the United States  
12 Constitution. Though petitioner does not spell it out in this claim, it appears that he was booked  
13 into the King County Jail under the name Edwin R. Coston. It is not clear whether the name Allah  
14 was also reflected on the jail records. As explained above, the record before this court clearly  
15 demonstrates that Edwin Coston and Allah are the same individual. Moreover, the name under  
16 which petitioner was detained at the King County Jail in no way undermines the validity of his  
17 conviction or his current confinement.

#### 18 CONCLUSION

19 Based upon the foregoing, this Court recommends that petitioner's federal habeas petition  
20 be denied and that this action be dismissed with prejudice. A proposed order accompanies this

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01 Report and Recommendation.

02 DATED this 30th day of January, 2009.

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05 Mary Alice Theiler  
06 United States Magistrate Judge  
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